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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,370	10/23/2001	Wade C. Patterson	8218	2271

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EXAMINER

JAMAL, ALEXANDER

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/035,370	Applicant(s) PATTERSON ET AL.	
	Examiner Alexander Jamal	Art Unit 2643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-11 and 13-19 is/are rejected.
- 7) ☒ Claim(s) 2 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Based upon the submitted amendment (8-25-2005), the examiner notes that claim 5 has been cancelled, claims 1-4,6-10 have been amended and claims 11-21 have been added.
2. Examiner withdraws the previous statement regarding applicant's claimed priority, and notes that the priority date of 10-24-2000 is accepted.

Claim objections

3. **Claim 11** objected to because of the following informalities:

Line 2, "said comprising" should be "said wireless data exchange system comprising".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1,3,4,6-11,13-19** rejected under 35 U.S.C. 102(b) as being anticipated by Lavery Jr. et al (5769120).

As per **claim 1**, Lavery discloses a wireless data exchange system comprising an electronic appliance (toilet or other fluid dispensing device) that utilizes a microprocessor based two-way infra-red communication with a remote control to operate in a primary and secondary mode of operation (Col 1 lines 14-23, lines 59-65; Col 2 lines 20-30, lines 35-60). In order to perform a two-way communication, the appliance and the remote control inherently each comprise at least one transmitter and receiver for the purpose of transmitting and receiving information between each other. The appliance operates in a primary mode (Col 1 lines 60-63) as a standard IR sensor operated flush valve, and operates in a secondary mode in communication with the remote in order to change the mode of operation of the appliance (Col 2 lines 35-60). The remote device may be used to send configuration changes to the memory of the microprocessor that controls the water dispensing system. The configuration changes may be used to make the system operable (such as the primary mode of operation) or non-operable for a variety of parameters while still allowing the remote to configure the device (as in the secondary mode of operation). Examiner notes the table in Col. 43-44 of Lavery discloses that the remote transmits and receives information from the fluid dispensing device (steps 445-448, 435-443) via memory locations that are used by a micro-controller to set the operating parameters of the fluid device. Examiner further notes that the sensor may be in 'locked' mode (ie. the fluid dispensing device is 'inoperable' and yet the remote may still be in communication with the device). Another example of 'inoperable' would be

the LED flash being 'inoperable' while the remote may still be in communication with the fluid dispensing device (steps on Col. 45-46). The remote may issue commands to the fluid device in order to enable/disable certain features of the device (ie. make the device 'operable' or 'inoperable').

As per **claim 8**, claim rejected for same reasons as a method performed by the system of the claim 1 rejection.

As per **claim 11**, claim rejected for same reasons as claim 1 rejection.

As per **claims 3,4,14**, the sensing and communication are performed via IR rays (Col 2 lines 50-55).

As per **claims 6,15**, the remote comprises a processor (Col 2 lines 20-30) that uses memory that can be read from or written to by the remote (Col. 43-44).

As per **claims 7,13**, the remote inherently comprises a transmitter and receiver for the purpose of performing two way IR communication with the fluid dispensing device.

As per **claim 9**, the remote unit inherently comprises a display unit for the purpose of carrying out step 5 (displaying the current setting) (Col 61 steps 5).

As per **claim 10**, claim rejected for the same reasons as claim 7 rejection.

As per **claim 16**, claim rejected for same reasons as claim 1,6,7 rejections.

As per **claim 17**, Col 48, step 505 of Lavery discloses a configurable 'nonoperable' mode of the fluid dispensing device where the sensor is disabled for a period of time (2 seconds) and then set back to the 'operable' mode.

As per **claim 18**, claim rejected for the same reasons as claim 1 rejection.

As per **claim 19**, the remote may set the flush time of the device.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 20** rejected under 35 U.S.C. 103(a) as being unpatentable over Lavery Jr. et al (5769120) as applied to claim 11 above, and further in view of Dougherty et al. (6445306).

As per **claim 20**, Lavery discloses the remote as per claim 11, however Lavery does not disclose the remote communicating with a computer in order to store data on the internet.

Dougherty discloses a remote used with electronic devices that may communicate with a computer to transmit data over the internet to another computer (server). The data must be stored for the server to use the data (Col 2 lines 10-36). It would have been obvious to one of ordinary skill in the art at the time of this application to couple the remote to a computer and send the data over the internet for the purpose of allowing the data to be used by systems/people other than the immediate user of the remote and also

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for providing increased protection for the transmitted data since it is now stored at a remote location.

8. **Claim 21** rejected under 35 U.S.C. 103(a) as being unpatentable over Lavery Jr. et al (5769120) as applied to claim 11 above.

As per **claim 21**, Lavery discloses a single fluid system and remote as per claim 11, however Lavery does not disclose an additional system.

It would have been obvious to one of ordinary skill in the art at the time of this application to realize that common bathrooms contain more than one single fluid dispensing device and apply Lavery's system to a second, third, fourth (ect.) device for every device in the bathroom for the purpose of realizing Lavery's advantages for all fluid devices in the room. Furthermore, Lavery already contemplates multiple systems in the fact that he accounts for a security code to be transmitted so that the correct fluid device can identify commands from the correct remote (Col 127 Line 55 to Col 128 line 5).

Allowable Subject Matter

9. **Claims 2,12** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to claims 1-4,6-21 have been considered but are moot in view of the new ground(s) of rejection.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Jamal whose telephone number is 571-272-7498. The examiner can normally be reached on M-F 9AM-6PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis A Kuntz can be reached on 571-272-7499. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and **571-273-8300** for After Final communications.

AJ
September 28, 2005


CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
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